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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,015	10/21/2003	Jean Marc Berthaud	FR920020058US1	4790
26502	7590	10/16/2007		
IBM CORPORATION IPLAW SHCB/40-3 1701 NORTH STREET ENDICOTT, NY 13760			EXAMINER RUSSELL, WANDA Z	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 10/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/690,015

Applicant(s)

BERTHAUD ET AL.

Examiner

Wanda Z. Russell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-4, and 7-12** are rejected under 35 U.S.C. 102(e) as being anticipated by Klinker et al. (U.S. Patent 7,133,365 B2).

For **claim 1**, Klinker et al. teach a method for routing (Title) a datagram (information, Title) in an IP (col. 6, lines 41-43) network, said method comprising the steps of:

receiving (Fig. 1D) a datagram with a destination network address (col. 6, lines 41-43);

identifying (selection, col. 6, line 41) a next hop router en route to or associated with said destination network address (col. 6, lines 43-45); and

determining (col. 20, line 50) whether or not transmission of said datagram on a link to said next hop router would result in a bandwidth usage exceeding a bandwidth threshold (utilization alarm threshold, col. 20, line 31) associated with said next hop router (Fig. 12, and col. 20, lines 42-51 & then 21-32), and

if not, updating the bandwidth usage associated with said next hop router, and transmitting said datagram to said next hop router (col. 21, lines 6-10, and col. 8, lines 58-col. 9, line 4),

if so, selecting among other possible next hop routers en route to or associated with said destination address, another next hop router for which transmission of said datagram on a link to said other next hop router would not result in a bandwidth usage exceeding a bandwidth threshold associated with said other next hop router, updating the bandwidth usage associated with said other next hop router, and transmitting said datagram to said other next hop router (col. 21, lines 6-10, and col. 8, lines 58-col. 9, line 4).

For **claim 2**, Klinker et al. teach the method as set forth in claim 1, wherein the step of selecting comprises the steps of:

if, among said other possible next hop routers, there is no other next hop router for which the transmission of the datagram on the respective link would result in the bandwidth usage being less than the respective bandwidth threshold, choosing among said other possible next hop routers, another next hop router, updating the bandwidth threshold associated with said other, chosen next hop router with a larger, predefined bandwidth threshold; and transmitting the datagram to said other, chosen next hop router (col. 21, lines 6-10).

For **claim 3**, Klinker et al. teach the method as set forth in claim 1 wherein the step of determining, comprises the step of adding a bandwidth usage associated with said next hop router immediately before transmission of said datagram on said link to

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said next hop router to a bandwidth usage required for transmission of said datagram on said link to said next hop router, and comparing a result of said adding step to the bandwidth threshold associated with said next hop router (col. 20, lines 21-31).

For **claim 4**, Klinker et al. teach the method as set forth in claim 1 wherein the step of updating the bandwidth usage associated with the first said next hop router, comprises the step of updating in a table, the current bandwidth usage with the estimated bandwidth usage (col. 20, lines 13-20).

For **claim 7**, Klinker et al. teach the method as set forth in claim 2, wherein the step of choosing among said other possible next hop routers, comprises the step of choosing among said other possible next hop routers, a next hop router according to a shortest path algorithm (col. 20, line 48 & lines 42-51).

For **claim 8**, Klinker et al. teach the method as set forth in claim 1, wherein a bandwidth usage of a link to said next hop router is based on other datagrams that have been transmitted on said link within a time period prior to a current time (col. 13, line 50 & lines 44-53).

For **claim 9 and 12**, they are means claims corresponding to method claim 1 and 2, therefore they are rejected for the same reason above. See Figs. 2 and 3.

For **claim 10 and 11**, they are computer program product claims corresponding to method claim 1 and 2, therefore they are rejected for the same reason above.

Response to Amendment

3. Applicant's amendment filed August 30, 2007 has been received and considered. Claims 5 and 6 are canceled. Claims 11 and 12 are added.

Response to Arguments

4. Applicant's arguments, filed August 30, 2007, with respect to the rejection(s) of claim(s) 1-4 and 7-10 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Klinker et al. (U.S. Patent 7,133,365 B2). See rejection above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wanda Z. Russell whose telephone number is (571) 270-1796. The examiner can normally be reached on Monday-Thursday 9:00-6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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